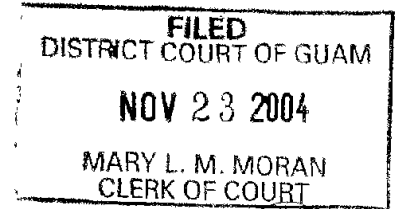


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IN THE DISTRICT COURT OF GUAM
TERRITORY OF GUAM

JAY MERRILL, on his own behalf and on)
behalf of all other similarly situated voters)
desirous of casting a vote in favor of)
Proposal A at a fair and legal election,)

Plaintiffs,)

vs.)

The Guam Election Commission; Gerald)
A. Taitano, in his capacity as the Executive)
Director of The Guam Election)
Commission, I Mina' Bente Siete Na)
LiheSlaturan Guahan (The 27th Guam)
Legislature); Felix P. Camacho, in his)
official capacity as the Governor Of Guam.)

Defendants.)

CIVIL CASE NO. CIV04-00046

DECLARATION OF THOMAS L. ROBERTS

I, Thomas L. Roberts, hereby depose and state under penalty of perjury that I am the attorney for the Plaintiff in this case, that I have personal knowledge of the matters stated herein, and that if called upon to do so, I could and would testify competently thereto.

1. Exhibit 1 to the amended complaint of file herein is a true and correct copy of the full text of the Guam Casino Gaming Control commission Act, otherwise known as "Proposal A."

2. Exhibit 2 to the amended complaint on file herein is a true and correct copy of a letter dated and sent on October 7, 2004 by the Office of the Attorney General to the Guam Election Commission. The attachment to the Attorney General's letter is a true and correct copy of the

ORIGINAL

enclosure to the ballot pamphlets actually mailed to the voters of Guam by the Election Commission in connection with the November 2, 2004 election on Proposal A.

3. Exhibit 3 to the amended complaint on file herein consists of true and correct copies of newspaper articles and text versions of KUAM news stories published and broadcast between October 7, 2004 and October 15, 2004. Among other things, the articles and broadcasts quote Election Commission Executive director Gerald Taitano and his attorney as stating that complete copies of Proposal A were not mailed to the voters of Guam 30 days prior to the November 2, 2004 because the Guam Legislature did not provide him with sufficient funds to do so. Mr. Taitano is also quoted as saying that he made the decision not to even ask for sufficient funding to do so in the months prior to the election because he never intended to mail copies of the text of Proposal A to the voters.

4. At his Thursday, November 18, 2004 deposition, Election Commission Executive Director Gerald Taitano admitted that neither he nor the Election Commission mailed copies of Proposal A to the voters before the November 2, 2004 election on Proposal A. Confronted with quotes from Exhibit 3 to the amended complaint on file herein, i.e., that he made the decision not to even ask for sufficient funding from the Legislature to mail copies of Proposal A to the voters before the election because he never intended to mail copies of the text of Proposal A to the voters, Mr. Taitano agreed that he said "words to that effect", to the best of the undersigned Declarant's recollection and deposition notes. He also admitted that the attorney for the Election

Commission advised him prior to the election that Guam law required a complete copy of Proposal A to be mailed to the voters before the election.

5. Exhibit 4 to the amended complaint on file herein is a true and correct copy of Bill 374, passed by the Guam Legislature on October 25, 2004 and signed into law by Guam's Governor on October 27, 2004.

6. I sat in spectators' area outside the legislative session hall on October 25, 2004, while the Legislature in the process of passing Bill 374. There was no public hearing on the proposed bill. No member of the public was invited by the Legislature to speak or comment on the bill. I did not hear any senator certify that there was an emergency including a danger to the public health or safety.

7. At his Thursday, November 18, 2004 deposition, testifying with respect to the requirements of Public Law 374, Mr. Taitano admitted that neither he nor the Election Commission published in a newspaper of general circulation the availability of copies of Proposal A at any particular location. He also admitted that on July 29, 2004, three full months before the November 2, 2004 election, the attorney for the Election Commission had warned him that Guam law required the complete text of Proposal A to be mailed to every registered voter on Guam prior to the election. Finally, Mr. Taitano testified that two years ago, the same Proposal A at issue in this lawsuit was legally qualified to be placed on the ballot for the 2002 general election, but the Election Commission's Board of Directors voted to delay its placement on the ballot until the 2004 election.

8. Exhibit 5 to the amended complaint on file herein consists of true and correct copies newspaper articles and text versions of KUAM news stories published and broadcast between October 18, 2004 and November 2, 2004.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 23rd day of November 2004, in Hagåtña, Guam.



THOMAS L. ROBERTS